

Senate Bill 172

By: Senators Wilkinson of the 50th, Mullis of the 53rd, Gooch of the 51st, Miller of the 49th, Sims of the 12th and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 8 and Title 36 of the Official Code of Georgia Annotated, relating to buildings and housing and local government, respectively, so as to prohibit local governments from adopting or enforcing ordinances or regulations relating to or regulating building design elements as applied to one or two-family dwellings; to provide for definitions; to provide for exceptions; to revise the term "zoning" as it relates to zoning procedures; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is amended in Part 1 of Article 1 of Chapter 2, relating to buildings generally, by adding a new Code section to read as follows:

"8-2-5.

(a) As used in this Code section, the term:

(1) 'Building design element' means, exclusively:

(A) Exterior building color;

(B) Type or style of exterior cladding material;

(C) Style or materials of roof structures or porches;

(D) Exterior nonstructural architectural ornamentation;

(E) Location or architectural styling of windows and doors, including garage doors;

(F) The number and types of rooms;

(G) The interior layout of rooms; and

(H) Types of foundation structures approved under state minimum standard codes.

(2) 'State minimum standard codes' means the following codes:

(A) International Building Code (ICC);

(B) National Electrical Code (NFPA);

(C) International Fuel Gas Code (ICC);

(D) International Mechanical Code (ICC);

(E) International Plumbing Code (ICC);

(F) International Residential Code for One- and Two-Family Dwellings (ICC);

(G) International Energy Conservation Code (ICC);

(H) International Fire Code (ICC);

(I) International Existing Building Code (ICC);

(J) International Property Maintenance Code (ICC); and

(K) Any other code deemed appropriate by the board for the safety and welfare of Georgia's citizens.

(3) 'Zoning decision' shall have the same meaning as provided in Code Section 36-66-3.

(4) 'Zoning ordinance' shall have the same meaning as provided in Code Section 36-66-3.

(b) No county or municipal corporation shall adopt or enforce any ordinance or regulation relating to or regulating building design elements as applied to one or two-family dwellings except under one or more of the following circumstances:

(1) The structure is located in an area designated as a historic district pursuant to Article 2 of Chapter 10 of Title 44, the 'Georgia Historic Preservation Act';

(2) The structure is located in an area designated as a historic district on the National Register of Historic Places;

(3) The structure is individually designated as a local, state, or national historic landmark;

(4) The ordinance or regulation is a requirement of applicable state minimum standard codes;

(5) The ordinance or regulation is applied to manufactured homes in a manner consistent with Part 2 of Article 2 of this chapter, 'The Uniform Standards Code for Manufactured Homes Act,' and applicable federal law; or

(6) The ordinance or regulation is adopted as a condition of participation in the National Flood Insurance Program.

(c) The provisions of subsection (b) of this Code section shall not be construed to:

(1) Prohibit or impair the power of a county or municipal corporation to adopt or enforce any zoning ordinance or make any zoning decision; or

(2) Affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements."

SECTION 2.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by revising paragraph (3) of Code Section 36-66-3, relating to definitions relative to zoning procedures, as follows:

"(3) 'Zoning' means the power of local governments to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate, within their respective territorial boundaries, to divide property into separate zones or districts, and, in connection with such divisions, to regulate the following within ~~such~~ the zones or districts in accordance with the uses of property for which such zones or districts were established:

(A) Land use;

(B) The height, width, area, and size of buildings and other structures;

(C) The percentage of lots that may be occupied;

(D) The size of yards, courts, and other open spaces;

(E) The density of the population;

(F) The location and use of buildings, structures, and land;

(G) Lot coverage, lot width, lot area, and setbacks;

(H) Spacing between buildings and structures;

(I) Buffer zones;

(J) Parking requirements; and

(K) Landscaping requirements."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.